

Application No. 10/621,727  
Reply to Office Action of August 25, 2006

Atty. Docket No. 00131-00339-US

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### REMARKS

Favorable consideration of this Application as presently amended and in light of the following discussion is respectfully requested.

After entry of the foregoing Amendment, Claims 1-4, 6, 11-14, and 16-25 are pending in the present Application. Claims 1 and 11 have been amended. Support for the amendment of Claims 1 and 11 can be found in figures 3, 5 and 6. No new matter has been added.

By way of summary, the Official Action presents the following issues: Claims 1-4, 6, 11-14, 16-21, and 23-27 stand rejected on the ground of nonstatutory obviousness-type double patenting; and, Claims 1-4, 6, 11-14, 16-21, and 23-27 stand rejected under 35 U.S.C. § 103 as being unpatentable over Wool et al. (U.S. Patent No. 6,121,398, hereinafter Wool).

### DOUBLE-PATENTING REJECTION

The Official Action has provisionally rejected 1-4, 6, 11-14, 16-21, and 23-27 under the judicially created Doctrine of Obviousness-type double patenting over Claims 1-20 of U.S. Patent No. 6,121,398.

In response, Applicants have filed herewith a Terminal Disclaimer. Accordingly, Applicants respectfully request that the double-patenting rejection be withdrawn.

The filing of a Terminal Disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. The "filing of a Terminal Disclaimer simply serves the statutory function of removing the rejection of

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double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 U.S.P.Q.2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

### **REJECTION UNDER 35 U.S.C. § 103**

The outstanding Official Action has rejected Claims 1-4, 6, 11-14, 16-21, and 23-27 under 35 U.S.C. § 103 as being unpatentable over Wool et al. (U.S. Patent No. 6,121,398, hereinafter Wool). The applicant has amended the independent claims (claims 1 and 11) and each claim now requires an amount of at least 10% by weight of feathers. From the data shown in Figures 3, 5 and 6, it is clear that the results using at least 10% compared to 5% are significantly better. The results of 5% chicken feathers in the material are very similar to results having no feathers in the material at all (see Figures 3 and 5). However, when you add 10% by weight the results in the material are surprising unexpectedly superior. For example, the tan delta at 10% is about half the change at 5%, which is about twice the improvement with no chicken feathers added (see figure 6). This is discussed in more detail in the published application in paragraph no. 30 which states,

Tan  $\delta$  of AESO composites versus temperature is shown in FIG. 6. The maximum value of the loss factors (Tan  $\delta$ ) decreases with increased feather fiber content indicating the increasing trend of composite rigidity. The lowering of the damping energy suggests the restraint effect of the fiber on the matrix mobility.

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and this restriction is enhanced with an increasing fiber content. Also, the damping peak becomes broader with increasing fiber content, indicating many kinds of relaxation modes of polymer chains due to the fiber. A peak of Tan  $\delta$  is assigned to the glass transition temperature of AESO composites. (emphasis added)

Figure 5 is discussed in more detail in the published application in paragraph no. 29 which states,

FIG. 5 illustrates the storage modulus of room temperature cured AESO composites as a function of temperature. A change in the modulus indicates a change in rigidity and, hence, strength of the composite. The storage modulus of AESO composites was improved significantly with an adding chicken feather fiber over whole range of the testing temperature. The incorporation of chicken feather fiber gives rise to a considerable increase of stiffness of the soy oil based composites. The slight decrease at 5 wt % composite is due to voids remained in the composite. (emphasis added)

Wool is silent on the amount of feathers in the material. Wool is also silent on insulator materials as is claimed in claims 17 and 18.

It is recognized that Wool would cover any amount of feathers, however, Wool did not recognize the advantage of having at least 10% by weight feathers in the material. This is a selection invention over Wool. For the above reasons, this rejection should be withdrawn.

### CONCLUSION

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application, including Claims 1-4, 6, 11-14, and 16-25 is

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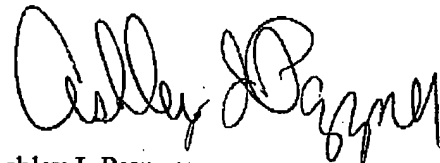
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patently distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

Applicant believes no fee is due with this request. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 00131-00339-US from which the undersigned is authorized to draw.

Respectfully submitted,

CONNOLLY, BOVE,  
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Enclosure: Terminal Disclaimer  
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